UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

I/P ENGINE, INC.

     Plaintiff,

    v.   Civil Action No. 2:11-cv-512

AOL INC., *et al.*,

     Defendants.

**MEMORANDUM IN SUPPORT OF MOTION TO SEAL (1) PORTIONS OF THE
DECLARATION OF KRISTIN ZMRHAL IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL
MEMORANDUM REGARDING MOTION TO SHOW CAUSE; (2) PORTIONS OF
EXHIBITS 6-8 TO THE DECLARATION OF JOSHUA L. SOHN IN SUPPORT
THEREOF; AND (3) EXHIBITS 9-10 TO THE DECLARATION OF JOSHUA L. SOHN
IN SUPPORT THEREOF**

In support of their Motion to Seal pursuant to Local Rule 5, and the Protective Order

entered in this matter on January 23, 2012 (Doc. No. 85), Defendants Google Inc., Target

Corporation, IAC Search & Media, Inc., Gannett Co., Inc. and AOL Inc. (collectively

"Defendants") state the following:

1.   Defendants have moved the court for leave to file under seal (1) Portions of the

Declaration of Kristin Zmrhal in Support of Defendants' Opposition to Plaintiff's Motion for

Leave to File Supplemental Memorandum Regarding Motion to Show Cause ("Portions of the

Zmrhal Declaration"); (2) Portions of Exhibits 6-8 to the Declaration of Joshua L. Sohn in

Support of Defendants' Opposition to Plaintiff's Motion for Leave to File Supplemental

Memorandum Regarding Motion to Show Cause and Motion to Strike Plaintiff's Supplemental

Memorandum ("Portions of Exhibits 6-8 to the Sohn Declaration"); and (3) Exhibits 9-10 to the

Declaration of Joshua L. Sohn in Support of Defendants' Opposition to Plaintiff's Motion for Leave to File Supplemental Memorandum Regarding Motion to Show Cause and Motion to Strike Plaintiff's Supplemental Memorandum ("Exhibits 9-10 to the Sohn Declaration").

2.   Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration contain data that is confidential under the Protective Order.

3.   There are three requirements for sealing court filings: (1) public notice with an opportunity to object; (2) consideration of less drastic alternatives; and (3) a statement of specific findings in support of a decision to seal and rejecting alternatives to sealing. *See, e.g., Flexible Benefits Council v. Feldman*, No. 1:08-CV-371, 2008 U.S. Dist. LEXIS 93039 (E.D. Va. Nov. 13, 2008) (citing *Ashcraft v. Conoco, Inc.,* 218 F.3d 282, 288 (4th Cir. 2000)). Defendants contend that Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration contain data that is confidential under the Protective Order. Defendants specifically state as reasons for sealing the requested pleadings that they contain highly confidential business and trade secret information, all of which is not generally known, has economic value, and the disclosure of which would cause competitive harm if made widely public.

Defendants have made all reasonable efforts to narrowly limit their redactions in compliance with the law of this Circuit.

4.   *In camera* copies of Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration have been forwarded to the Court.

5.   By filing narrowly redacted public pleadings, the Defendants have made all reasonable efforts to limit their redactions in compliance with the law of this Circuit.

6.   For the sake of consistency with practices governing the case as a whole, Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration should remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, and in satisfaction of the requirements of Local Rule 5, Defendants respectfully ask the Court to seal Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration.

DATED: October 21, 2013   /s/ Stephen E. Noona
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CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2013, I will electronically file the foregoing with the

Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to

the following:

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